

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jennine Giordano	Team: Team # 3	CCRB Case #: 200612657	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 09/24/2006 12:45 AM	Location of Incident: Oakley Street and East 221st Street	Precinct: 47	18 Mo. SOL 3/24/2008	EO SOL 3/24/2008	
Date/Time CV Reported Sun, 09/24/2006 1:00 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 09/24/2006 1:00 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Raso	18576	933235	047 PCT
2. POM Luis Alemany	15173	900152	047 PCT
3. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Levar Stockton	05791	934206	047 PCT
2. POM Michael Mccready	01037	924163	047 DET
3. POM Michael Acosta	30158	932235	072 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers stopped § 87(2)(b)	
B.POM Michael Raso	Force: PO Michael Raso used physical force against § 87(2)(b)	
C.POM Michael Raso	Abuse: PO Michael Raso searched § 87(2)(b)	
D.POM Luis Alemany	Discourtesy: PO Luis Alemany spoke obscenely to § 87(2)(b)	
E.POM Michael Raso	Abuse: PO Michael Raso threatened § 87(2)(b) with the use of force.	

### Synopsis

§ 87(2)(b) filed this complaint with the Civilian Complaint Review Board's (CCRB) call processing system on September 24, 2006 at 1:00 p.m., regarding an incident that occurred earlier that morning. At 12:45 a.m., § 87(2)(b) was with his girlfriend, § 87(2)(b) and parked his vehicle on the corner of East 221<sup>st</sup> Street and Oakley Street in the Bronx. § 87(2)(b) exited the vehicle first and walked towards § 87(2)(b) home, which is located at § 87(2)(b). § 87(2)(b) who was dressed in a hooded sweatshirt, crossed the street to follow § 87(2)(b) when a gold Chevrolet Impala stopped near him and three plainclothes officers, identified from the investigation as PO Michael Raso, PO Luis Alemany and PO Levar Stockton, approached him. PO Alemany instructed § 87(2)(b) to take his hands out of his pocket then PO Alemany and PO Raso allegedly grabbed § 87(2)(b) by his hands (Allegation A). PO Alemany and PO Raso allegedly pushed § 87(2)(b) towards the rear bumper of the Impala. PO Raso allegedly kicked § 87(2)(b) in the inner-thigh of his left leg (Allegation B). PO Raso frisked § 87(2)(b) and allegedly reached into § 87(2)(b) pockets and removed his cell phone, keys and license (Allegation C). When § 87(2)(b) asked the officers if he looked like a thief, PO Alemany allegedly responded, "Yeah. You look like a thief. Shut the fuck up" (Allegation D). PO Raso allegedly told § 87(2)(b) "I should smash your face into the windshield" (Allegation E). PO Stockton did not interact directly with § 87(2)(b) but spoke to § 87(2)(b) who remained in the area. PO Raso issued § 87(2)(b) a summons § 87(2)(a) 160.50 and the officers left the scene. After the incident, § 87(2)(b) sought medical attention at § 87(2)(b) Hospital in the Bronx for pain to his thigh.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

This case was initially assigned to former Investigator Edward Hughes on September 26, 2006. Upon his resignation, the case was reassigned to the undersigned investigator on July 27, 2007.

### Summary of Complaint

On September 24, 2006 at 1:55 a.m., § 87(2)(b) arrived at § 87(2)(b) Hospital in the Bronx and complained of pain on his arms and thigh. § 87(2)(b) informed the emergency room that he was arrested and kicked in the leg by the police approximately two hours to his arrival (encl. 3b-3d).

§ 87(2)(b)

§ 87(2)(b) is a Black male who is 5 feet 8 inches tall, 170 pounds with brown hair and brown eyes. Inv. Hughes interviewed § 87(2)(b) at the CCRB on October 5, 2006 (encl. 3d-3f) and he provided a subsequent phone statement to the undersigned investigator on October 12, 2007 (encl. 3g-3h). Discrepancies in the statements are noted below.

On September 24, 2006 at approximately 12:30 a.m., § 87(2)(b) and his girlfriend, § 87(2)(b) drove home in § 87(2)(b) Honda Accord from a barbecue that was held at a friend's house in Eastchester. During his subsequent phone statement, § 87(2)(b) could not recall what time he and § 87(2)(b) arrived at the barbecue but confirmed that they left the barbecue at 11:45 p.m. While at the barbecue, § 87(2)(b) consumed one bottle of Heineken beer. During his phone statement, § 87(2)(b) reported drinking the beer four hours before he left the barbecue. § 87(2)(b) parked his vehicle on the southeast side of Oakley Street and East 221<sup>st</sup> Street in the Bronx. § 87(2)(b) who was in the front passenger seat, exited the vehicle first and walked towards § 87(2)(b) home which is located at 1162 East 221<sup>st</sup> Street. § 87(2)(b) crossed East 221<sup>st</sup> Street and stopped on the north side of the street. § 87(2)(b) exited his vehicle and walked along the south side of East 221<sup>st</sup> Street. § 87(2)(b) was wearing a hooded sweatshirt and had his hands in his front pocket, which contained his cell phone and keys. § 87(2)(b) observed an unmarked gold Chevy Impala slowly pass by him on East 221<sup>st</sup> Street. Once the vehicle passed him, § 87(2)(b) crossed the street. The Impala suddenly stopped and three plainclothes officers exited. PO # 1 exited the passenger seat, PO # 2 exited the driver seat and PO # 3 exited from the rear of the vehicle. PO # 1, described as a white male approximately 5 feet 8 inches tall wearing eyeglasses

and identified from the investigation as PO Luis Alemany, instructed § 87(2)(b) to get his hands out of his pockets. § 87(2)(b) said to PO Alemany, "Don't go in my pockets. I'll go in my own pockets." During his phone statement, § 87(2)(b) explained that when the officers asked him to remove his hands, he assumed that the officers would search his pockets next. PO # 2, described as a white, male wearing cargo pants and a short sleeve blue polo shirt and who was identified from the investigation as PO Michael Raso, helped PO Alemany grab § 87(2)(b) by the hands. PO Alemany and PO Raso pushed § 87(2)(b) toward the rear bumper of the vehicle and PO Alemany handcuffed § 87(2)(b). PO Raso kicked § 87(2)(b) from behind in the inner-thigh of his left leg. During his phone statement, § 87(2)(b) specified that he was facing the vehicle when PO Raso did this. He also specified that PO Raso did not actually kick him with the bottom of his shoe but rather used his left or right knee to nudge into § 87(2)(b) thigh. § 87(2)(b) did not feel as if PO Raso did this as an attempt to spread his legs further apart because his legs were already spread apart. PO Alemany reached into § 87(2)(b) pockets and removed his cell phone, keys and license, which were all inside of his pocket. When § 87(2)(b) asked, "Why are you doing this? Do I look like a thief?" PO Alemany responded, "Yeah, you look like a thief. Shut the fuck up." PO Raso said to § 87(2)(b) "I should smash your face into the windshield." § 87(2)(b) was speaking loudly because he was angry, but he never cursed at the officers. PO # 3, described as a black male, approximately 6 feet 2 inches tall and who was identified from the investigation as PO Levar Stockton, approached § 87(2)(b) and spoke with her. PO Alemany and PO Raso placed § 87(2)(b) in the back seat of the vehicle. PO Raso told § 87(2)(b) that he should "solemnly apologize or he would be arrested or issued a summons." The officers issued § 87(2)(b) a summons for disorderly conduct. The officers then removed his handcuffs and allowed § 87(2)(b) to go on his way and they drove off. § 87(2)(b) returned to his apartment and then decided to go to the hospital to seek medical treatment for his left leg. During his phone statement, § 87(2)(b) indicated that he took a photograph of the injury on his leg on his cell phone but due to the time that had passed since the incident occurred, he no longer had the same cell phone.

### Results of Investigation

#### Witness

§ 87(2)(b) is a § 87(2)(b). Inv. Hughes interviewed § 87(2)(b) at the CCRB on the same date as § 87(2)(b) (encl. 4-4b). § 87(2)(b) statement is generally consistent with § 87(2)(b) statement, therefore, only inconsistencies and additions will be noted below.

On September 24, 2006, at approximately 12:30 a.m., after § 87(2)(b) crossed the street she observed an unmarked gold Chevy Impala turn into the eastbound lane of East 221<sup>st</sup> Street. As she continued walking toward her apartment, she heard a male voice saying, "Miss. Miss." She did not pay attention at first because she assumed the men were trying to harass her because she had been walking at the time. When the Impala never passed her, she turned around to see where it stopped and observed § 87(2)(b) standing with two officers. A third officer walked toward § 87(2)(b) to find out if she knew § 87(2)(b). § 87(2)(b) heard § 87(2)(b) say, "Don't go into my pockets. I'll take whatever I have in my pockets out and show you." § 87(2)(b) indicated that § 87(2)(b) was speaking loudly but was never yelling. PO # 1, who § 87(2)(b) described as a male with a low-cut hairstyle and PO # 2, who she described as a Black male, pushed § 87(2)(b) against the left side of the rear bumper of the Impala. From the description § 87(2)(b) provided, PO # 1 and PO # 2 were identified as PO Alemany and PO Stockton, respectively. PO Alemany and PO Stockton put § 87(2)(b) hands behind his back and PO Stockton pulled § 87(2)(b) wallet, cell phone and keys out of his pockets. PO # 3, who § 87(2)(b) described as an "Italian looking" white male who had been driving the Impala said, "What's wrong with him?" From the description § 87(2)(b) provided, PO # 3 was identified as PO Raso. § 87(2)(b) said, "Why are you assaulting me? I did not do anything, I'm just going home" and PO Raso responded, "You should shut the fuck up." PO Raso, using his knee, struck § 87(2)(b) on the back of his leg, causing him to scream out in pain. § 87(2)(b) said, "You kicked me and PO Raso responded, "I did not kick you. If I had assaulted you, I would have smashed your head into the windshield." The officers handcuffed § 87(2)(b) and placed him into the backseat of the Impala where he remained for five minutes. PO Raso told § 87(2)(b) to "solemnly apologize or be taken to the precinct." PO Raso walked towards § 87(2)(b) and told her that there were many robberies in the area recently. PO Stockton apologized for the

inconvenience and explained that they stopped § 87(2)(b) because of recent robberies and rapes in the area. When they got home, § 87(2)(b) complained of cramps in his leg and decided to go to the hospital.

### **Additional Witnesses**

§ 87(2)(b) indicated that her landlord and a couple of neighbors, for which she did not provide any names or contact information, heard the commotion and exited their homes to see what occurred. However, the investigation determined that according to § 87(2)(b) statement the potential witnesses arrived outside after all of the allegations occurred. PO Raso also corroborates this during his CCRB statement. As a result, no attempts were made to contact the above individuals.

### **Identification of Officers Interviewed**

PO Raso's name and tax registry number appear on the summons that was issued to § 87(2)(b). According to the tour 3 roll call for September 23, 2006, PO Raso was assigned to the anti crime team with PO Alemany and PO Stockton and they worked from 5:30 p.m. until 2:05 a.m. The reporter name that is listed on the stop and frisk report for § 87(2)(b) belongs to PO Michael Acosta of the 72<sup>nd</sup> Precinct. Therefore, he was also interviewed. Although the stop, question and frisk report contains PO Acosta's name and tax registry number he confirmed during his CCRB statement that his name and tax registry number, which is one digit different from PO Raso's, were mistakenly listed on the report.

### **Officer Statements**

#### *PO Michael Raso*

PO Raso prepared the stop, question and frisk report and the summons. The stop and frisk report notes that the officers used physical force against § 87(2)(b) which included placing their hands on § 87(2)(b) and placing him against a wall. The circumstances leading to § 87(2)(b) stop included his actions, which were indicative of casing a victim. The frisk was conducted due to § 87(2)(b) refusal to comply with the officers' directions and the fact that the officers observed a suspicious bulge, which was later discovered to be a cell phone. According to this report, the reason for the search was based upon the officers observing a bulge or hard object on § 87(2)(b) § 87(2)(b), § 87(2)(a) 160.50

#### *CCRB Statement*

PO Raso is a § 87(2)(b) eyes. He has 4-years tenure with the NYPD. Inv. Hughes interviewed PO Raso at the CCRB on March 6, 2007 (encl. 5d-5h). PO Raso's tour in the Robbery Auto began at 5:30 p.m. on September 23, 2006 and ended at 2:05 a.m. on September 24, 2006. PO Raso was dressed in uniform and assigned to an unmarked Chevrolet Impala # 716, of which he was the operator. PO Raso did not recall with whom he was working during the incident but confirmed that it was two other officers. He did not have any memo book entries for the incident (encl. 5e-5f).

At approximately 12:40 a.m. on September 24, 2006, PO Raso and his partners patrolled the confines of the 47<sup>th</sup> Precinct to address robbery incidents that had been occurring in the area. PO Raso was driving in the vicinity of Oakley Street and East 221<sup>st</sup> Street in the Bronx when he observed a black female walking on the street and a black male, who was wearing a hooded sweatshirt that completely covered his head, following the female. From his appearance it appeared as if the male, subsequently identified as § 87(2)(b) was attempting to conceal himself. PO Raso clarified that § 87(2)(b) was on the opposite side of the street as the female, subsequently identified as § 87(2)(b). PO Raso stopped the vehicle and he and his partners exited. PO Raso instructed § 87(2)(b) to stop and ran around the front of the vehicle to approach the side that § 87(2)(b) was on. § 87(2)(b) reached towards the area surrounding his waistband. PO Raso was unsure if he was attempting to grab a weapon, so he told § 87(2)(b) to place his hands on the vehicle. PO Raso and one of his partners grabbed § 87(2)(b) arms to put his hands on the side of the vehicle in order to prevent him from grabbing his waist again. § 87(2)(b) pulled his hands away from the officers and attempted to push himself away from the vehicle. PO Raso leaned against § 87(2)(b) with his upper body and pulled his arms behind him to handcuff him. However, PO Raso never kicked or kneed § 87(2)(b) in the thigh area of his leg. Since § 87(2)(b) did not acknowledge § 87(2)(b) and did not inform the officers that she knew him, PO Raso was still under the assumption that § 87(2)(b) had intended to rob her. PO Raso frisked § 87(2)(b) waistband and pockets, but did not

recall feeling any hard object. PO Raso did not believe that he reached into any of § 87(2)(b) pockets. § 87(2)(b) yelled and screamed, causing people to exit their homes. PO Raso and his partners explained to § 87(2)(b) that they stopped him because of the robberies that had been prevalent in the area. Once § 87(2)(b) began cooperating, the officers were able to speak to § 87(2)(b) and it was established that she knew § 87(2)(b) remained in handcuffs for approximately three to five minutes. § 87(2)(b) understood how § 87(2)(b) raised the officers' suspicion and she thanked the officers for the actions they took. PO Raso issued § 87(2)(b) a § 87(2)(b), § 87(2)(a) 160.50 because he was causing a public annoyance. PO Raso never heard § 87(2)(b) complain of injuries. PO Raso never threatened to smash § 87(2)(b) face into the windshield and never heard his partners curse at him. PO Raso confirmed that he filled out a stop, question and frisk report to document this incident.

#### *PO Luis Alemany*

PO Alemany is a § 87(2)(b). He has 15-years tenure with the NYPD. The undersigned investigator interviewed PO Alemany at the CCRB on November 27, 2007 (encl. 6a-6c). On September 24, 2006, PO Alemany worked the same tour and assignment as PO Raso. However, PO Alemany could not recall the third officer who was assigned to the anti crime team on the above date. PO Alemany did not have his memo book with him during the interview. PO Alemany could not recall where he was seated in the vehicle during the incident but confirmed that he was wearing eyeglasses. Only inconsistencies and additions to PO Raso's CCRB statement will be noted below.

PO Alemany, who made the observation from ten feet away in his vehicle, reported that § 87(2)(b) was walking on the same sidewalk as § 87(2)(b) and estimated the distance between them to be three yards. It appeared as if § 87(2)(b) was walking faster than § 87(2)(b) and was trying to "catch up." PO Raso stopped the vehicle and informed § 87(2)(b) that they wanted to speak with him. PO Alemany and PO Raso exited the vehicle and stood side by side. The male, subsequently identified as § 87(2)(b) approached the officers' vehicle. PO Raso asked § 87(2)(b) for his identification but he refused to provide it and when PO Raso asked § 87(2)(b) what he was doing in the area he did not respond. As PO Raso spoke with § 87(2)(b) PO Alemany observed a bulge under § 87(2)(b) sweatshirt, which was located near his left waistband area and verbally alerted PO Raso. However, unlike PO Raso, PO Alemany never observed § 87(2)(b) touch his waist area. PO Alemany reached out to touch/ frisk the area near the bulge to ensure that it was not a weapon but before he could do so, § 87(2)(b) grabbed PO Alemany's right arm. PO Alemany pulled § 87(2)(b) towards him and pushed him onto the patrol car. PO Alemany and § 87(2)(b) leaned against the vehicle and § 87(2)(b) refused to release his grip from PO Alemany's arm. Meanwhile, PO Raso grabbed the area surrounding the bulge and removed the object, which had been clipped to his waistband and was ultimately discovered to be a cell phone, to ensure that it was not a weapon. PO Raso also frisked § 87(2)(b) however PO Alemany was not sure where he was frisked and could not recall whether § 87(2)(b) was handcuffed. PO Raso and PO Alemany never searched § 87(2)(b) pockets or removed any objects from his pockets. Eventually, PO Alemany and PO Raso were able to remove § 87(2)(b) grip from PO Alemany's arm. PO Alemany never observed PO Raso kick § 87(2)(b) on any part of § 87(2)(b) body. § 87(2)(b) was screaming at the "top of his lungs," however, PO Alemany could not recall his specific statements. After § 87(2)(b) became compliant and provided the officers with his identification, § 87(2)(b) approached and informed the officers that she knew § 87(2)(b) PO Alemany never used any profanity towards § 87(2)(b) and never overheard PO Raso threaten him with the use of force. § 87(2)(b) never complained of any injuries to PO Alemany. PO Alemany clarified that although the stop and frisk report indicates § 87(2)(b) was placed against a wall, he was only placed against the vehicle.

#### *PO Levar Stockton*

PO Stockton is a § 87(2)(b). He has 3-years tenure with the NYPD. Inv. Hughes interviewed PO Stockton at the CCRB on August 14, 2007 (encl. 7-7d). PO Stock worked from 5:30 p.m. on September 23, 2006 until 2:30 a.m. on September 24, 2006 and was assigned to the 47<sup>th</sup> Precinct Anti Crime Unit. PO Stockton could not recall whom he worked with except for PO Raso. PO Stockton was dressed in plainclothes and assigned to a green Crown Victoria. However, he could not recall where he was seated in the vehicle. PO Stockton did

not have any entries in his memo book regarding this incident and only listed his start and end of tour on that day (encl. 7a-7b).

PO Stockton had no recollection of interacting with § 87(2)(b) on September 24, 2006. PO Stockton was shown a copy of the summons that was issued to § 87(2)(b) and Inv. Hughes provided a verbal description of § 87(2)(b) stating that he was a black male with a heavy Jamaican accent. Additionally, a brief description of the incident was provided. Although, PO Stockton indicated that he is familiar with the area surrounding East 221<sup>st</sup> Street and Oakley Street, none of aforementioned information assisted PO Stockton in remembering the incident.

#### *PO Michael Acosta*

PO Acosta is a § 87(2)(b). He has 4-years tenure with the NYPD. Inv. Hughes interviewed PO Acosta at the CCRB on April 24, 2007 (encl. 8-8d). PO Acosta, whose name and tax registry number appears on § 87(2)(b) stop, question and frisk report, worked from 11:15 p.m. on September 23, 2006 until 7:50 a.m. on September 24, 2006 and was assigned as the Assistant Desk Officer at the 72<sup>nd</sup> Precinct. PO Acosta has never been assigned to the 47<sup>th</sup> Precinct and confirmed that he did not complete a stop, question, and frisk report on September 24, 2006. PO Acosta, whose tax registry number is similar to PO Raso's, indicated that his information must have been erroneously inputted onto the report.

#### **Officers Not Interviewed**

The tour 3 roll call lists PO Michael Mccready as working in the anti crime unit with PO Raso, PO Alemany and PO Stockton on the date of incident. However, upon contacting PO Mccready, who has recently been transferred to the 47<sup>th</sup> Precinct detective squad, he confirmed that the information contained in the roll call is wrong because he was off on that day. PO Mccready faxed a copy of his memo book to the CCRB, which confirms that he was off on September 23, 2006 and September 24, 2006 (encl. 9-9a).

#### **Medical Documents**

§ 87(2)(b) arrived at § 87(2)(b) Hospital in the Bronx at 1:55 a.m. He complained of pain on his arms and leg as well as scrotum area. § 87(2)(b) had an abrasion on his right hand, pain in his left thigh. A medical diagram notes that § 87(2)(b) had tenderness on the front, left side of his thigh. § 87(2)(b) was diagnosed with an abrasion on his right hand and a contusion. However, it is unclear from the medical records where the contusion was located. He was prescribed Motrin for the pain (encl. 10-10d).

#### **Police Department Documents**

*Stop, Question, Frisk Index, Roll Call (encl. 11-11a)*

The stop, question and frisk index confirms that § 87(2)(b) was stopped on September 24, 2006 and was suspected of robbery. The roll call confirms that all of the officers who were interviewed were on duty when the incident occurred.

#### **Police Officer CCRB History**

PO Raso does not have any previously substantiated allegations. PO Alemany has one prior substantiated allegation stemming from case # 9602394, regarding a threat of force allegation for which he ultimately received a command discipline "A" on November 30, 1999 (encl. 2-2aa).

#### **Complainant CCRB History**

§ 87(2)(b) has not filed any previous CCRB complaints (encl. 2b).

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b)

## Identification of Subject Officers

§ 87(2)(b), § 87(2)(g)

#### **Allegations Not Pleaded**

§ 87(2)(b) testified that he was loud during the incident because he was upset. § 87(2)(b) PO Raso and PO Alemany corroborate this. It is reasonable to believe that § 87(2)(b) was somewhat resistant to the officers stopping him and would have acted disorderly. Therefore, PO Raso would have been within his right to use his discretion and issue § 87(2)(b) a summons rather than arresting him. PO Raso issued a summons to § 87(2)(b) based solely on his behavior. Therefore, a retaliatory summons allegation will not be pleaded. Although PO Raso testified that he frisked § 87(2)(b) never made this allegation during his CCRB statement, therefore, it will not be pleaded.

#### **Allegation A: Abuse of Authority: Officers stopped § 87(2)(b)**

§ 87(2)(b) alleged that three plainclothes officers approached him and PO Alemany instructed him to get his hands out of his pocket. PO Alemany and PO Raso allegedly grabbed § 87(2)(b) by his hands and allegedly placed him against the rear bumper of the unmarked vehicle. According to PO Raso's portrayal of the incident he instructed § 87(2)(b) to stop. However, PO Alemany testified that PO Raso informed § 87(2)(b) that they wanted to speak with him and requested his identification. Even if the encounter, as according to the officers, began as a common law of inquiry, once the officers grabbed § 87(2)(b) and prevented him from walking away, it rose to a forcible stop and will be analyzed as such. PO Alemany and PO Raso both testified that around the date of incident there had been numerous gunpoint robberies occurring in the vicinity of Oakely Street and East 221<sup>st</sup> Street. PO Alemany and PO Raso's main duty while being assigned to the anti crime team on September 24, 2006 was to patrol the 47<sup>th</sup> Precinct to specifically address robberies in the area. Although their testimony of whether § 87(2)(b) and § 87(2)(b) were on the same side of the street differ, both officers corroborate that they observed § 87(2)(b) dressed in a hooded sweatshirt that completely covered his face, walking behind § 87(2)(b) at a fast pace. § 87(2)(b) and § 87(2)(b) provided consistent testimony in that § 87(2)(b) walked ahead of § 87(2)(b) and crossed a street. § 87(2)(b) also indicated that he began crossing the street in the same direction as § 87(2)(b) when the officers stopped him. The fact that § 87(2)(b) and § 87(2)(b) both agreed that they were on opposite side of the street at some point and that § 87(2)(b) began crossing over in the same direction as § 87(2)(b) when he was stopped leads more credence to PO Raso and PO Alemany's testimony. It is plausible that § 87(2)(b) action in crossing the street to follow behind § 87(2)(b) raised the officers' level of suspicion and that coupled with the time of incident and pattern of gunpoint robberies prompted them to request § 87(2)(b) to stop. At the time, the officers did not know that § 87(2)(b) and § 87(2)(b) knew each other and from the way he was



dressed, it appeared to both officers that § 87(2)(b) was trying to conceal himself. PO Alemany and PO Raso suspected that § 87(2)(b) was going to rob § 87(2)(b). Furthermore, PO Raso alleged that after requesting § 87(2)(b) to stop, he immediately reached for his waistband but never observed a bulge. PO Alemany, on the other hand, alleged that he immediately observed a bulge near § 87(2)(b) waistband area but never observed him touch or reach for the bulge. It is also plausible that both officers may have pinpointed their attention on different factors. PO Raso, from his position, may have been more concerned with § 87(2)(b) touching his waist area and therefore may not have observed a bulge and PO Alemany, from his position, may have only observed a bulge but little or no hand movements. Regardless of exactly what the officers observed, in this case, both articulated that they grabbed § 87(2)(b) and placed him against a vehicle because they feared for their safety and because, given the aforementioned information, believed § 87(2)(b) could have been in possession of a weapon. PO Raso and PO Alemany had the intention of grabbing § 87(2)(b) hands so that he would not continue to reach for his waist and to ultimately prevent him from touching the bulge that was observed under his shirt. The investigation determined that the officers' actions were appropriate and not done in bad faith. According to *Kamins Search and Seizure Guidelines*, A police officer can stop a person in a public place when he reasonably suspects that such person is committing, has committed or is about to commit either a felony or a misdemeanor defined in penal law, *Kamins 144 (encl. 1)*. *Kamins Search and Seizure Guidelines* defines reasonable suspicion as that quantum of knowledge sufficient to induce an ordinarily prudent and cautious man under the circumstances to believe criminal activity is at hand, *Kamins 145 (encl. 1)*. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation B: Force: PO Michael Raso used physical force against § 87(2)(b)**

Initially during his CCRB statement § 87(2)(b) alleged that PO Raso kicked him in his inner-thigh, however, during a subsequent phone statement § 87(2)(b) alleged that PO Raso kneed him in his inner-thigh. Although significant time had passed between his two statements, § 87(2)(b) provided inconsistent testimony in regards to PO Raso making contact with his leg. § 87(2)(b) confirmed that PO Raso did not knee him as a way to separate his legs during a search, as they were already spread apart. Furthermore, § 87(2)(b) observed PO Raso kick § 87(2)(b) on the back of his leg. Some of the information contained in § 87(2)(b) medical records is inconsistent or different from what he reported during his CCRB statement. Specifically, the medical records note that § 87(2)(b) injury to his leg was contained on the front part of his thigh, however, § 87(2)(b) reported that he was kneed from behind while facing the vehicle. The medical records also indicate "tenderness" in § 87(2)(b) scrotum area and a contusion on his right hand, which § 87(2)(b) had not mentioned during his CCRB statement. PO Raso denied the fact that he kicked or kneed § 87(2)(b) in the leg and PO Alemany denied observing this, it is § 87(2)(g)

§ 87(2)(b)

**Allegation C: Abuse of Authority: PO Michael Raso searched § 87(2)(b)**

**Allegation D: Discourtesy: PO Luis Alemany spoke obscenely to § 87(2)(b)**

**Allegation E: Abuse of Authority: PO Michael Raso threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) alleged that PO Alemany told him to "Shut the fuck up" and PO Raso said to him, "I should smash your face into the windshield." § 87(2)(b) overheard these comments but provided them as occurring in different contexts than § 87(2)(b) did and PO Alemany and PO Raso denied making such comments. Therefore, it remains unclear exactly what was said. § 87(2)(b) alleged that his pockets were searched and items were removed. The stop, question and frisk report notes that § 87(2)(b) was frisked and searched at the scene. Although PO Raso admitted to frisking § 87(2)(b) he indicated that he "did not believe" he ever went into § 87(2)(b) pockets. PO Alemany corroborated that § 87(2)(b) was frisked but denied that § 87(2)(b) was searched at the scene. PO Alemany also stated that PO Raso removed the cell phone from § 87(2)(b) waistband. Furthermore, § 87(2)(b) was unreliable in her testimony and indicated that PO Stockton was the officer who searched § 87(2)(b). Unlike PO Alemany, PO Raso did not recall feeling or seeing any hard objects on § 87(2)(b) and never mentioned the fact that a cell phone was recovered from him. The officers' testimony conflicts with the information, which is pertained in the stop, question and frisk report. The stop, question and frisk report specifically noted that the reason for the search was a result of a hard object. As a result the circumstances surrounding the alleged

frisk and whether it occurred remain unknown. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: